



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

ALISON HOLMAN
Complainant,

and

ILLINOIS DEPT. OF CHILDREN AND
FAMILY SERVICES
Respondent.

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)Charge No: 1997 CF 2989

)EEOC No: 21 B 972642

) ALS NO. 10649

RECOMMENDED ORDER AND DECISION

This matter is before me following a Recommended Liability Determination (RLD) issued on February 21, 2002, incorporated by reference herein. Pursuant to the RLD, Complainant filed a written motion for attorney's fees on March 22, 2002. Respondent filed a written response. This matter is ready for decision.

CONTENTIONS OF THE PARTIES

Complainant requests \$6,675.00 in attorney fees for 44.50 hours of services. Respondent does not object to Complainant's request for attorney's fees; however, Respondent does object to the calculation of the damage award.

DISCUSSION

In my RLD, I admitted that I could not reconcile Complainant's calculation of the damage award and invited the Parties to submit additional briefing as to the calculation of damages only as a part of their respective attorney fee petitions. Respondent submitted an objection to the calculation of the damage award; Complainant did not address the calculation in her attorney fee petition.

Respondent submits competent documentation that Complainant's regular monthly salary would have been \$3,399.00 for all months from April 1997 until October 1997 for a total of \$23,793.00 for the operative period. Respondent argues that amounts received in those respective months should be deducted from Complainant's regular monthly salary in order to net a true compensable amount. Respondent submits detailed documentation of amounts received for each month in disability and salary payments totaling \$11,765.48, contending that this amount should be deducted from the total. Therefore, Complainant lost an amount calculated as \$23,793.00 minus \$11,765.48, or \$12,027.52 for the period of April 1997 until October 1997.

Respondent's calculations are credible and convincing and justify recalculation of my previous damage calculation as indicated in my RLD.

FINDINGS OF FACT

1. Complainant's counsel, Rafael Molinary (Molinary), has been practicing law for 21 years and practicing in the area of employment rights for the past 18 years.
2. Molinary has represented employers and employees in civil rights, civil service and unfair labor practices during the last 18 years.
3. Molinary has worked for the Illinois Department of Human Rights and the U.S. Department of Housing and Urban Development (HUD).
4. Molinary was employed as the Lead Supervising Attorney for the Illinois Department of Human Rights for 2 ½ years in 1987 to 1990 and was staff attorney there for 4 years.
5. Molinary represented HUD in San Francisco, California as a labor attorney in equal employment and civil rights matters, civil service and unfair labor practices for almost 2 ½ years.
6. Complainant requests a rate of \$150.00 per hour for 44.50 hours spent for legal services.
7. The requested fee of \$150.00 per hour is reasonable in light of Molinary's experience.
8. The requested 44.50 hours are reasonable time expenditures for the work performed.
9. Respondent submits competent evidence that Complainant received some salary and disability pay for the months she was on disability leave, which payments should be deducted from the total damages award.
10. Respondent submits credible documentation and detailed calculations supporting that Complainant's damages award should be \$12,027.52 and not the \$21,237.00 I initially recommended in the RLD.
11. Respondent further submits competent evidence that Complainant received a \$565.00 bonus when she returned to work in October 1997; therefore, Complainant should not have been awarded a \$500.00 bonus.

CONCLUSIONS OF LAW

1. The requested hourly rate of \$150.00 for attorney's fees is supported by the documentation and is reasonable.
2. The requested amount of hours expended for legal services is supported and reasonable.

DETERMINATION

1. Complainant should be awarded 44.50 hours at \$150.00 per hour for attorney's fees for a total of \$6,675.00.
2. Complainant should be awarded recalculated damages in the amount of \$12,027.52.
3. Complainant shall not be awarded a bonus, as she received a \$565.00 bonus when she returned to work in October 1997.

Appropriate Hourly Rate

When considering a fee petition, it is first necessary to establish a reasonable hourly rate. An appropriate hourly rate is generally dependent upon the actual hourly rate the attorney charges, the experience of the attorney, and previous awards of attorney's fees to counsel. *Clark and Champaign National Bank*, 4 Ill.HRC Rep. 193 (1982).

The fee petition and affidavit of Attorney Molinary provides sufficient documentation regarding his experience to support an hourly rate of \$150.00.

Appropriate Number of Hours Expended

Once the hourly rate is decided upon, the next step is to determine whether the hours claimed are justified. Complainant filed an affidavit and an itemized list of work performed by Molinary. Although the itemized list is not extensively detailed, I find the time expenditures and the specific work identified to be sufficient to support my determination that the hours were reasonable and the work necessary for the litigation of this matter.

RECOMMENDATION

Based on the foregoing, it is recommended that the Commission order that:

- A. Letters A, B and C of my RLD are vacated;
- B. Respondent pay Complainant \$12,027.52 in damages for back pay;
- C. Respondent pay Complainant prejudgment interest on the amount in B of this order;
- D. Respondent is not to pay Complainant any bonus damages;
- E. Respondent pay Complainant \$6,675.00 for attorney's fees;
- F. Complainant receive all other relief recommended in the RLD entered February 21, 2002 except A, B and C.

HUMAN RIGHTS COMMISSION

By: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section

ENTERED: May 30, 2002